

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

FILED BY *EC* D.C.  
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THOMAS M. GOULD  
CLERK, U.S. DISTRICT COURT  
WD OF TENN.

DENISE D. RICHARDSON,  
Plaintiff,

vs.

SOUTHWEST TENNESSEE COMMUNITY  
COLLEGE, et al.,  
Defendants.

X  
X  
X  
X  
X  
X  
X  
X  
X  
X  
X

No. 05-2588-Ma/P

ORDER OF PARTIAL DISMISSAL  
AND  
ORDER TO ISSUE AND EFFECT SERVICE OF PROCESS

Plaintiff Denise D. Richardson filed a pro se complaint pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., on August 15, 2005 and paid the civil filing fee. The Clerk shall record the defendants as Southwest Tennessee Community College and Dr. Nathan Essex.

According to the Sixth Circuit, "a district court may not sua sponte dismiss a complaint where the filing fee has been paid unless the court gives the plaintiff the opportunity to amend the complaint." Apple v. Glenn, 183 F.3d 477, 478 (6th Cir. 1999) (per curiam); see also Benson v. O'Brian, 179 F.3d 1014 (6th Cir. 1999); Tingler v. Marshall, 716 F.2d 1109, 1112 (6th Cir. 1983). There is an exception to this general rule, however, that permits a district

court to dismiss a complaint "for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure when the allegations of a complaint are totally implausible, attenuated, unsubstantial, frivolous, devoid of merit, or no longer open to discussion." Apple, 183 F.3d at 478 (citing Hagans v. Lavine, 415 U.S. 528, 536-37 (1974)).

The complaint contains no factual allegations about defendant Essex. When a plaintiff completely fails to allege any action by a defendant, it necessarily "appears beyond doubt that the plaintiff can prove no set of facts which would entitle him to relief." Spruytte v. Walters, 753 F.2d 498, 500 (6th Cir. 1985). Moreover, there is no remedy under Title VII against a co-worker or supervisor in his or her individual capacity. Wathen v. General Electric Co., 115 F.3d 400, 405 (6th Cir. 1997). Accordingly, the Court DISMISSES the complaint in its entirety with respect to defendant Essex, pursuant to Fed. R. Civ. P. 12(b)(1) and (h)(3), for lack of subject-matter jurisdiction.

Within thirty (30) days of the date of entry of this order, the plaintiff shall personally appear at the Clerk's office and, upon presentation of a copy of this order, the Clerk shall provide plaintiff one (1) blank, unsigned summons. Pursuant to Fed. R. Civ. P. 4(b), the plaintiff is responsible for properly filling out the summons and presenting it to the Clerk for signature and seal. If the summons is in proper form, the Clerk shall sign, seal,

and issue it to the plaintiff for service on the remaining defendant, Southwest Tennessee Community College. The plaintiff is responsible for ensuring that service is effected on the defendant pursuant to Fed. R. Civ. P. 4(h)(1).<sup>1</sup> Service on the defendant shall include a copy of this order. The plaintiff shall file proof of service pursuant to Fed. R. Civ. P. 4(l).

It is ORDERED that the plaintiff shall serve a copy of every further document filed in this cause on the attorney for the defendant, or on the defendant if it has no attorney. The plaintiff shall make a certificate of service on every document filed. The plaintiff shall familiarize herself with the Federal Rules of Civil Procedure and the local rules of this Court.

The plaintiff shall promptly notify the Clerk of any change of address or whereabouts. Failure to comply with these requirements, or any other order of the Court, may result in this case being dismissed without further notice.

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<sup>1</sup> Plaintiff also must comply with Rule 4(c)(2), which requires, in part: "Service may be effected by any person who is not a party and who is at least 18 years of age."

The plaintiff is advised that the time limit set forth in Fed. R. Civ. P. 4(m) shall commence running on the date of entry of this order.

IT IS SO ORDERED this 29<sup>th</sup> day of November, 2005.

A handwritten signature in black ink, appearing to read 'S H Mays, Jr.', written over a horizontal line.

SAMUEL H. MAYS, JR.  
UNITED STATES DISTRICT JUDGE



## Notice of Distribution

This notice confirms a copy of the document docketed as number 2 in case 2:05-CV-02588 was distributed by fax, mail, or direct printing on December 1, 2005 to the parties listed.

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Denise D. Richardson  
3115 Autumn Gold Lane  
Memphis, TN 38119

Honorable Samuel Mays  
US DISTRICT COURT